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CERTIFIED TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF	:	Administrative Action
	:	
	:	CONSENT ORDER
MICHAEL FELBER, D.D.S.	:	
License # DI 20145	:	
	:	
LICENSED TO PRACTICE DENTISTRY	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the State Board of Dentistry upon receipt of information that Michael Felber, D.D.S. ("respondent"), was arrested in May, 2000 for possession of CDS, marijuana, and drug paraphernalia. Respondent was admitted into the Pretrial Intervention Program. On June 6, 2001, respondent appeared with counsel, Gerald R. Salerno, Esq., before the Board of Dentistry at an investigative inquiry. During his testimony, respondent admitted

that he has in the past used marijuana recreationally and that on the day of his arrest, he had in his possession marijuana for personal use as well as a water pipe. Respondent further testified that the controlled dangerous substances in his possession were dispensed to him by a licensed physician. He produced documentation supporting that claim. Prior to the investigative inquiry, at the Board's request, respondent submitted to a urine test. The results of that test were negative. Respondent stated that he had not used any substance since his arrest and had no intention of doing so again. He had not entered any treatment program and had not participated in any support group.

The Board has considered respondent's testimony and the report of Joseph J. Coyne, Ph.D., who evaluated respondent following his arrest, and a letter from William I. Keene, D.D.S., M.A., Director of the New Jersey Dental Association Chemical Dependency Program. Based on the information before it, the Board at this time believes it is necessary to impose certain conditions on respondent's continued practice of dentistry to ensure to the public health, safety, and welfare. The entry of this consent order does not limit the right of the Attorney General to pursue an application for relief before the Board, including an application for the temporary suspension of respondent's license pursuant to N.J.S.A. 45:1-22 should respondent fail to comply with the terms

set forth here. The Board finds the terms of this consent order to be adequately protective of the public health, safety and welfare.

THEREFORE, IT IS ON THIS 14th DAY OF November, 2001,

ORDERED AND AGREED THAT:

1. (a.) Respondent shall submit a urine sample four times a month at a laboratory facility designated by the Board. This requirement shall continue until further order of the Board expressly reducing or discontinuing testing. Respondent shall be provided with specific directions for the protocol of the testing procedure and the location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b.) All test results shall be provided to Kevin B. Earle, Executive Director of the Board, or his designee in the event he is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different

methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c.) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Kevin B. Earle, or his designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d.) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(e.) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.009 shall be deemed a confirmed positive urine test.

(f.) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Respondent specifically agrees that ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

2. Respondent shall be evaluated by the New Jersey Chemical Dependency Program of the New Jersey Dental Association or the Physician's Health Program of the Medical Society of New Jersey and shall comply, at his own expense, with any counseling or therapy recommendations made by that organization. Respondent shall be responsible for ensuring that the treating psychologist and any other person(s) providing therapy for his addiction provide the Board with quarterly reports regarding his progress in counseling.

3. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. With regard to any requirement for submission of the quarterly reports to the

Board, the beginning of the first quarter is deemed to have commenced November 1, 2001.

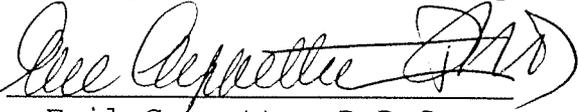
4.(a.) Respondent shall be subject to an order of automatic suspension of license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

(b.) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be subject to ratification of the full Board at its next scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

5. Respondent shall pay costs of investigation in this matter pursuant to N.J.S.A. 45:1-25 in the amount of \$663.93. Costs shall be paid by certified check or money order and shall be submitted within thirty days of the entry of this order to Kevin B. Earle, Executive Director, State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

6. Respondent may apply for modification of the terms of this order not sooner than six months following its entry. Prior to considering modification of the terms of the order, the Board may require respondent to submit to an independent psychiatric or other medical examination and have the results of that examination provided to the Board.

New Jersey Board of Dentistry

By: 
Emil Cappetta, D.D.S.
President

I have read and I understand this Consent Order and agree to be bound by its terms


Michael Felber, D.D.S.

I consent to the entry of this order as to form.


Gerald R. Salerno, Esq.